Maryland Administrative Office of the Courts Child Support Enforcement Conference December 2010



Dealing with the Special Needs of the Military

DoD Policy



Parents
Are To Be
Fiscally Responsible
For Their Children



Service Regulations



- > Army AR 608-99
- > Air Force AFI 36-2906
- Navy SECNAVINST 7431.1
- Marine Corps Marine Corps Order P5800.16 (LEGADMIN) Chapter 15
- Coast Guard PERSMAN Chapter 8M



Resources





➤ 'A Caseworker's Guide to Support Enforcement and Military Personnel'

http://www.acf.hhs.gov/programs/cse/fct/militaryguide2000.htm (Click on virtual library of training materials)

➤ 'Working with the Military on Child Support Matters: Trainer Guide'

http://www.acf.hhs.gov/programs/cse/pubs/training/working_with_military/



Service of Process



- Jurisdictional Issue
- Personal Service
- Service Overseas

http://www.travel.state.gov/law/info/judicial/judicial_680.html



Locate Issues and VOE'S



- ➤ The information is contained in the Quarterly Wage & New Hire Reports these include all pays the member received for the quarter.
- ➤ Ask State Child Support Office for DoD External Locate Requests sent from the state to DMDC
 - Active duty/unit duty address
 - Reserves-unit/duty address
 - Retired-home address
 - Contact your state technical support liaison listed on ACF website under new hire contacts
- ➤ Use of subpoena is cumbersome for states & puts heavy burden on DFAS.



Military Locator



Army Active Duty:

Army Worldwide Locator
USAEREC
8899 E. 56th Street
Indianapolis, IN 46249-5301
1-866-771-6357

Army Reserve:

US Army
Human Resources Command
1 Reserve Way
St. Louis, MO 63132
(314) 538-3777

Navy:

Navy Personnel Command (PERS 312)
5720 Integrity Drive
Millington, TN 38055-3120
(901) 874-3388
fax (901) 874-2000
Most Expedient Method

Air Force:

HQ/AFPCDPDXIDL 5550 C. St. West, Suite 50 Randolph AFB, TX 78150-4752 (210) 565-2660 (210) 565-1675



Military Locator



Marine Corps:

HQMC – MMSB -17
2008 Elliot Road, Room 201
Quantico, VA 22134-5030
(703) 784-3941
Most Expedient Method

Coast Guard:

US Coast Guard
Personnel Command
2100 2nd St. W
Washington, DC 20593
(202) 493-1697
fax (202) 267-4985



Facilitating Service of Process



Army:

Office of the Judge Advocate General

Attn: DAJA-LA

2200 Army Pentagon

Washington, D.C. 20310

(703) 588-6708

Air Force:

AFLSA/JACA

1420 Air Force Pentagon

Washington, D.C. 20330-1420

(703) 697-0413

Navy:

Office of the Judge Advocate General (Code 16)

Washington Navy Yard

1322 Patterson Avenue, SE Suite 3000

Washington, D.C. 20374-5066

(202) 685-4637



Facilitating Service of Process



Marine Corps:

Legal Assistance 1555 South gate Road Building 29, Room 301 Arlington, VA 22214 (703) 614-1266

Coast Guard:

Commanding Officer (LGL)
US Coast Guard
Personnel Service Center
Federal Building
444 SE Quincy Street
Topeka, KS 66683-3591
(785) 339-3592





Servicemembers' Civil Relief Act (SCRA)



Time for a Change



"Congress has long recognized that the men and women of our military services should have civil legal protections so they can "devote their entire energy to the defense needs of the Nation." With hundreds of thousands of servicemembers fighting in the war on terrorism and the war in Iraq, many of them mobilized from the reserve components, the Committee believes the Soldiers' and Sailors' Civil Relief Act (SSCRA) should be restated and strengthened to ensure that its protections meet their needs in the 21st century."

House Committee on Veterans Affairs Report 108 H. Rpt. 81



New, Improved SCRA



- On 19 December 2003, President Bush signed the SCRA, a complete revision of the SSCRA.
- > The SCRA was written to:
 - clarify the language of the SSCRA
 - incorporate and codify many years of judicial interpretation of the SSCRA
 - update the SSCRA to reflect developments in American life since 1940





Scope of the SCRA



Who is Covered:

- Active Military
 - Army, Navy, Air Force, Marine Corps, Coast Guard
 - Reservists called to active duty
 - National Guard in Title 10 status or Title 32 status if called to active duty for more than 30 days for purposes of responding to a national emergency declared by the President and supported by federal funds

Not applicable to:

- Retirees
- Civilian Employees
- DoD Contractors
- Dependents*

^{*}Certain protections may apply to contractual obligations of dependents (e.g., leases terminations)



Proceedings/Orders Covered by SCRA



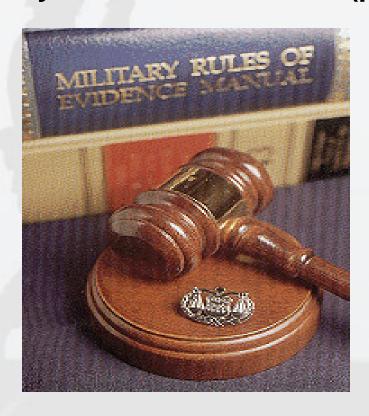
- Judicial Proceedings
- > Administrative proceedings (as of Dec. 2003)
- > Entry of interim orders (as of Dec. 2004)
- Entry of final orders
- The SCRA has very limited effect on the enforcement of orders



Automatic Stays



➤ As a general rule, the court must grant an initial stay of proceeding for no less than 90 days if properly requested by the Service member (plaintiff *or* defendant).



Rationale:

With delayed mail delivery and diminished opportunities to consult with legal counsel so common to military service, a period of time is needed to allow an adequate opportunity for servicemembers to consult with military or civilian counsel, and to respond to the courts.



Member Request for Stay



> Two-fold request:

- Communication from the service member:
 - Setting forth facts in which current military duty requirements materially affect his/her ability to appear
 - Stating a date when the Service member will be available to appear
- Letter from the Service member's commanding officer affirming the following:
 - Service member's military duty prevents an appearance
 - Military leave is not authorized for the Service member at the time of the letter
 - *If this letter contains the Service member's available court dates, the court may deem the letter sufficient to pass the two-fold test.



DOD Instruction 1327.6 - Leave & Liberty

Mandates that Service member's commander grant leave for paternity and support hearings.

> Exceptions:

- Service member is deployed in a war
- Exigencies of military service require denial of such a request



Subsequent Request for Stay of Action



- Court has the discretion to grant or deny the stay
- ➤ If the court denies the stay, it must appoint an attorney to represent the Service member



Effect of Request on Member's Trial



Application for a stay under §522 does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense (including a defense relating to lack of personal jurisdiction).





- ➤ When a defendant does not appear in court or respond to Agency summons, the SCRA requires a sworn affidavit by the plaintiff stating either:
 - Whether or not the defendant is in military service and showing necessary facts to support the affidavit
 - The plaintiff is unable to determine whether or not the defendant is in military service.
- Consequences of failing to file an affidavit
 - A non-Service member defendant has no remedy.
 - If the defendant is a Service member, then the order can be voided and is subject to attack upon a showing that the Service member:
 - is materially affected by reason of military service in making a defense to the action
 - has a meritorious or legal defense to all or part of the action.





- If defendant is not in the military, the plaintiff may proceed to final judgment.
- ➤ If defendant is in the military, the court is required to appoint an attorney for the defendant.



Appointed Counsel



- When defendant is a Service member, must appoint prior to granting default judgment
- Duties of appointed attorney
 - protects Service member's rights
 - determines status and seeks stay
- Can't waive rights or bind Service member



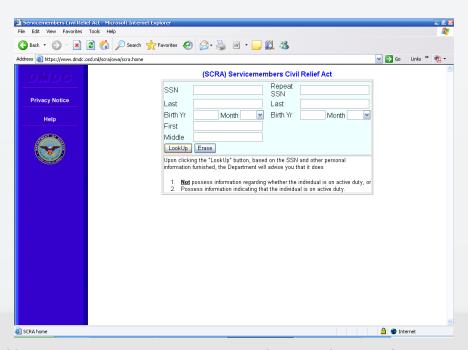


- SCRA default guidance applies to all of the following:
 - Final Judgments
 - Interim Orders (New)
 - Court Orders
 - Administrative Support Orders but not to administrative enforcement remedies, such as liens, wage withholdings, etc.





- Defense Manpower Data Center (DMDC)
- Provide Certificate as to military service on the Internet acceptable documentation to show whether he/she is in the military



https://www.dmdc.osd.mil/scra/owa/scra.home





If the Service member is on active duty, this is what you'll see:

Request for Military Status

Department of Defense Manpower Data Center

AUG-07-2006 12:20:05



Military Status Report Pursuant to the Servicemembers Civil Relief Act

✓ Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
DOE	John Joseph	OCT 18-1996	Active Duty	Army

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Military.

Mary M. Snavely-Dixon

Mary M. Snavely-Dixon, Director

Department of Defense - Manpower Data Center

1600 Wilson Blvd., Suite 400

Arlington, VA 22209-2593





▶ If the Service member is NOT on active duty, this is what you'll see:

Request for Military Status

Department of Defense Manpower Data Center

AUG-07-2006 12:21:37



Military Status Report Pursuant to the Servicemembers Civil Relief Act

≪ Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
DOE	John Joseph	Based on the information you have furnished, the DMDC does not possess any information indicating that the individual is currently on active duty.		

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Military.

Mary M. Snavely-Dixon

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1600 Wilson Blvd., Suite 400

Arlington, VA 22209-2593



Reopening a Default Judgment



- Service member can request court to re-open judgment any time during Service member's period of military service
- Service member/attorney can also file an application to reopen within 90 days of the end of military service



6% Rate Cap



- SCRA rule on interest
- New law clarifies that interest above 6% must be forgiven (some creditors were deferring interest)
- Applies to child/spousal support arrearages
- Applies to only those arrearages incurred prior to induction to active duty
- Material affect analysis applies
- Under SCRA, Service member must request the cap and produce orders



Recent SCRA Amendments



2004:

- ➤ Amended 50 USC App 511— "judgment" to includes any judgment, decree, order or ruling—final or temporary.
- Waivers of SCRA rights must be in separate documents with 12 point type.
- Made the stay provisions available to plaintiffs as well as defendants.
- ➤ Lease termination protections of 50 USC App 535 apply to spouses

2006:

➤ Amended 50 USC App 594 to insulate Service members from health insurance premium increases other than those of general applicability.

2008:

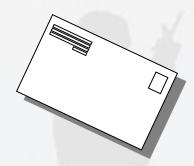
- ➤ Amended 50 USC App 521(a) to include child custody proceedings in default proceedings
- ➤ Amended 50 USC App 522 (a) to include child custody proceedings in automatic stay provisions



Contact Information



Send garnishment orders to:



DFAS-HGA-CL P O Box 998002 Cleveland, OH 44199-8002



Fax Gateway: 1-877-622-5930

Website: http://www.dfas.mil/

(click on the Garnishment link under the Quick Links Section)







▶ DoD Pay Tables

http://www.dfas.mil/militarypay/militarypaytables.html

▶ Basic Allowance for Housing (BAH)

http://perdiem.hqda.pentagon.mil/perdiem/
(Contains BAH tables & zip code feature to search)

Leave and Earnings Statement (LES)

http://www.dfas.mil/militarypay/newinformation.html



FEIN for Military & Civilian Employees

Army (Active Duty)	359990000
Army (Reserve Duty)	351819323
Air Force (Active Duty)	849990000
Air Force (Reserve Duty)	849980000
Navy (Active Duty)	349990000
Navy (Reserve Duty)	349980000
Marine Corp (Active & Reserve)	539990000
Retired Pay	340727612
DoD Civilian Employees	311575142
DoE Civilian Employees	530197006
HHS Civilian Employees	530196960
EPA Civilian Employees	520852695
BBG Civilian Employees	522260085



- ➤ Establish support in accordance with State guidelines.
- ➤ Military Base Pay by Rank and Time in Service
- > Allowances:
 - BAH (Basic Allowance for Housing)
 - Amount increases with Rank
 - BAS (Basic Allowance for Subsistence)

Military Pay



The quarterly wage report provided to NDNH includes all income received by a military person.

Special Skills Pays

- Flight pay
- Hazardous duty pay
- Career Sea pay
- Submarine duty pay
- Jump pay
- Many others

Bonuses

- Lump-sum (usually for Re-enlisting)
- A detailed list of those pays can be found in the DFAS Quick Guide. (See DFAS web site under child support agencies' information).



Pay System Addresses



➤ Obtain Service Members' Payroll Information from the Appropriate Military Finance Center only for wages older than one year

Air Force Active Duty, Air Force Reserves & National Guard

Army Active Duty, Army Reserves & Army National Guard

DFAS Indianapolis Attn: DFAS IN-FJEF 8899 East 56th Street Indianapolis, IN 46249-0865 Navy Active Duty, Navy Reserves, Marine Corps All Military Retirees

> DFAS Cleveland Attn: DFAS CL-GAF 1240 East 9th Street Cleveland, OH 44199

Legal Process



The laws we use:

- Child Support/Alimony
 - Statutory Involuntary Allotments 42 USC 665, 32 CFR 54
 - Garnishments 42 USC 659, 5 CFR 581
- Commercial Debt Civilian/Military
 - Civilian 5 USC 5520a, 5 CFR 582
 - Military 5 USC 5520a, 32 CFR 112, 113
- Uniformed Services Former Spouses' Protection Act
 - 10 USC 1408, DoDFMR Vol 7B, Chap 29
- Consumer Credit Protection Act 15 USC 1673
- Servicemembers' Civil Relief Act 50 USC App. 501 Et seq.

Child Support



- Use Income Withholding Orders (IWO) under 42 U.S.C. 659 or statutory allotment under 42 U.S.C. 665
- IWO quicker and more easily processed
- > IWO can also be sent electronically through OCSE network
- Allocation When we receive a second or subsequent order and the member's disposable pay is insufficient to pay all ordered amounts, we must allocate payments between the orders.



Statutory Allotments



≻ "Allotment" is a Misnomer

- These are Wage Withholding Actions!
- Active duty military pay and allowances

> Prerequisites

- A court or administrative order establishing a child support (or spousal and child support) obligation
- An arrearage in an amount equal to or greater than two months support under the obligation

Procedure

- Court or state CSE agent sends notice to DFAS requesting initiation of an involuntary allotment
- "Notice" is a letter signed by designated person (32 CFR, Part 54.3)



Statutory Allotments



- The allotment will be for the amount of the monthly support obligation. Please include:
 - Member's name
 - Member's Social Security Number
 - A statement that there are arrearages equal to or greater than 2 months support
 - The date the allotment should stop
- For arrearages, the request must ask for and have a court or administrative order requiring the payment of accrued arrearages

USFSPA Update



Stringent Legal Requirements for Direct Payment

- > Final order from Court of Competent Jurisdiction
 - No Foreign Courts
- Jurisdiction over the member
 - Residence in the jurisdiction by reason other than military assignment
 - Domicile
 - Consent
- > SCRA
 - If member is on Active Duty at time of divorce
- > 10/10 Rule
 - Marriage must be at least ten years that overlaps with ten years of creditable service

USFSPA Update



Other Considerations

- > Maximum Payment:
 - ➤ 50% of Disposable Pay
 - > If combined with Garnishment Order 65% Maximum
- Order should award fixed amount or percentage
- Can apply for current child support and alimony without an IWO
- Can apply for child support arrears

Voluntary Acknowledgement of Paternity

- Previous DoD policy Out of wedlock children were dependents for health care benefits
 - Judicial determination of paternity
 - Dependent upon member for more than 50 percent of his or her support
- January 28, 2008 New policy expands and creates a third category: a voluntary acknowledgement of paternity
 - Policy is to facilitate entitlements to military benefits provided to children of Uniformed Service Members



Medical Support From Military



- OCSE works with the states on a FCR and DOD Medical coverage match - First match December 2005
 - Provided on a Quarterly Basis
 - Identifies children currently enrolled and eligible for enrollment in DEERS
 - Eliminates the need to send NMSN to DMDC get info faster
- Use automated match for Active, Reserves, and Retired Military
- Civilians no change. Human resource address on New hire and Quarterly wage records provides medical coverage information
- > Enrollment
 - Nearest location 1-800-538-9552 or web site
 - http://www.dmdc.osd.mil/rsl/owa/home RAPID's address
 - Need name & SSN of obligor plus name, SSN and date of birth of child

Medical Support - Military



- Case Actions:
- For children already enrolled, annotate the case and ensure medical support is in the order (counts on OCSE 157)
- New! Sponsor information is available for child, preadoptive child, foster child, or ward.
- When one parent is in the military, but child is not enrolled, refer the CP to the nearest RAPIDS Center
- For children previously covered, update record and ensure actions are taken to obtain new medical coverage



Medical Support - Civilians



Dept of Energy-DOE payroll,

19901 Germantown Rd Germantown, MD 20874-1290

Dept of HHS- DHHS payroll Support Division,

PO BOX 14950, Silver Spring, MD 20911

Dept of EPA-USEPA/OARM/OHR/3661A,

Room B324H, 1200 Pennsylvania Ave, NW Washington DC 20460



Dealing with the Special Needs of the Military



Helpful Website Links



DFAS

BAH Calculator

Pay Tables http://www.dfas.mil/militarypay/2006militarypaytables/2007 Web Pay Table.pdf

Explanation of LES http://www.dfas.mil/militarypay/militaryemploymentverification.html

https://secureapp2.hqda.pentagon.mil/perdiem/bah.html

My Pay https://mypay.dfas.mil/mypay.aspx

Combat Zone - IRS Impact http://www.irs.gov/newsroom/article/0.,id=101262,00.html
Combat Zones around the world http://www.irs.gov/newsroom/article/0..id=101262,00.html

RAPIDS Locator http://www.dmdc.osd.mil/rsl/owa/home

MAIL

USPS http://www.usps.com

Domestic Manual http://pe.usps.com/text/dmm300dmm300 landing.htm

International Mail Manual http://pe.usps.com/text/imm/welcome.htm

Military Mail Address APO/FPO https://tops.ppcigweb.sddc.army.mil/ppcig/home/appendicesPostOffices.jsp

Military Postal Service Agency http://hqdainet.army.mil/mpsa/index.htm

LOCATE

Military Installation Guide http://hqdainet.army.mil/mpsa/index.htm
http://community.military.com/buddy-finder/

Together we served http://www.togetherweserved.com

Navy Ship Addresses http://www.navy.mil/navydata/ships/lists/ship-fpo.asp
Marine Unit Locations http://www.usmc.mil/marinelink/websites.nsf/unitslocation

Army Installations http://www.imcom.army.mil/site/imcom/default.asp

SCRA https://www.dmdc.osd.mil/scra/owa/home

Hague Convention

Service of Process Convention

http://www.hcch.net/index_en.php?act=text.display&tid=44

Evidence Convention

http://www.hcch.net/index_en.php?act=conventions.text&cid=82

US State Department-service of pro http://travel.state.gov/law/info/judicial/judicial-680.html
US State Department-child support http://travel.state.gov/law/info/judicial/judicial-680.html



Military Rank and Pay Grade Chart DEAS



Pay Grade	Navy	Army	Air Force	Marine Corps	Coast Guard				
Commissioned Officers									
	/								
		2nd Lieutenant	2nd Lieutenant	Second					
0-1	Ensign (ENS)	(2LT)	(2d Lt)	Lieutenant (2ndLt)	Ensign (ENS)				
2 1	î l				Lieutenant				
	Lieutenant Junior Grade	1st Lieutenant	1st Lieutenant	1st Lieutenant	Junior Grade				
0-2	(LTJG)	(1LT)	(1LT)	(1LT)	(LTJG)				
0-3	Lieutenant (LT)	Captain (CAPT)	Captain (CAPT)	Captain (CAPT)	Lieutenant (LT)				
9.					Lieutenant				
	Lieutenant Commander				Commander				
0-4	(LCDR)	Major (MAJ)	Major (MAJ)	Major (MAJ)	(LCDR)				
		Lieutenant Colonel	Lieutenant	Lieutenant	Commander				
0-5	Commander (CDR)	(LTC)	Colonel (Lt Col)	Colonel (Lt Col)	(CDR)				
0-6	Captain (CAPT)	Colonel (COL)	Colonel (Col)	Colonel (Col)	Captain				
		, , ,	, ,	, ,	Rear Admiral				
	Rear Admiral (Lower	Brigadier General	Brigadier General	Brigadier General	(Lower Half) (
0-7	Half) ((RADM) (L)	(BGEN)	(Brig Gen)	(BrigGen)	(RADM) (L)				
<i>y</i>					Rear Admiral				
	Rear Admiral (Upper	Major General	Major General	Major General	(Upper Half)				
0-8	Half) (RADM) (U)	(MGEN)	(Maj Gen)	(MajGen)	(RADM) (U)				
Δ		Lieutenant General	Lieutenant	Lieutenant	Vice Admiral				
0-9	Vice Admiral (VADM)	(LGEN)	General (Lt Gen)	General (LtGen)	(VADM)				
	, ,	,	,	, ,	,				
0-10	Admiral (ADM)	General (GEN)	General (Gen)	General (Gen)	Admiral (ADM)				



Military Rank and Pay Grade Chart cont. CFAS

Pay Grade	Navy	Army	Marine Corps	Coast Guard
Warrant Officers	_			
W1		Warrant Officer-1 (WO1)		
W2	Chief Warrant Officer-2 (CWO-2)	Warrant Officer-2 (CW)	Chief Warrant Officer 2 (CWO2)	Chief Warrant Officer 2 (CWO2)
W3	Chief Warrant Officer-3 (CWO-3)	Warrant Officer-3 (CWO-3)	Chief Warrant Officer-3 (CWO-3)	Chief Warrant Officer-3 (CWO-3)
W4	Chief Warrant Officer-4 (CWO-4)	Chief Warrant Officer-4 (CWO-4) "Chief"	Chief Warrant Officer 4 (CWO-4)	Chief Warrant Officer 4 (CWO-4)



Military Rank and Pay Grade Chart cont. 15

Pay Grade	Navy	Army	Air Force	Marine Corps	Coast Guard	
Enlisted Personnel		•		•		
	Seaman Recruit					
E-1	(SR)	Private E-1 (PV1)	Airman Basic (AB)	Private (Pvt)	Seaman Recruit (SR)	
	Seaman Apprentice					
E-2	(SA)	Private E-2 (PV2)	Airman (Am)	Private First Class (PFC)	Seaman Apprentice (SA)	
A 1	8	Private First Class	Airman First Class			
E-3	Seaman (SN)	(PFC)	(A1C)	Lance Corporal (LCpl)	Seaman (SN)	
5	Petty Officer, 3rd	Specialist 4 (SPC) OR	Sergeant (SGT) OR		Petty Officer 3rd Class	
E-4	Class (PO3) "Third	Corporal (CPL)	Sernior Airman (SrA)	Corporal (Cpl)	(PO3) "Third Class"	
1427	Petty Officer, 2nd				Petty Officer 2nd Class	
E-5	Class (PO2)	Sergeant (SGT)	Staff Sergeant (SSgt)	Sergeant (Sgt)	(PO2)	
2.4	Class (PO1) "First		Technical Sergeant		Petty Officer 1st Class	
E-6	Class"	Staff Sergeant (SSG)	(TSgt)	Staff Sergeant (SSgt)	(PO1) "First Class"	
			Master Sergeant			
	Chief Petty Officer	Sergeant First Class	(MSgt) OR First		Chief Petty Officer (CPO)	
E-7	(CPO) "Chief"	(SFC)	Sergeant	Gunnery Sergeant (GySgt)	"Chief"	
	Senior Chief Petty	Master Sergeant (MSG)	Senior Master			
	Officer (SCPO)	OR First Sergeant	Sergeant (SMSgt) OR	First Sergeant (1Sgt) or	Senior Chief Petty Officer	
E-8	"Senior Chief"	(1SG)	First Sergeant (E-8)	Master Sergeant (MSgt)	(SCPO) "Senior Chief"	
	Fleet (or					
	Command) Master					
	Chief Petty Officer		Chief Master	Sergeant Major (SgtMaj)	Command Enlisted	
	OR Master Chief	Sergeant Major	Sergeant (SMSgt	OR	Advisor OR	
	Petty Officer	(SMAJ) OR Command	OR First Sergeant	Master Gunnery Sergeant		
E-9	(MCPO)	Sergeant Major (CSM)	(E-9)	(MGySgt)	(MCPO)	
L-9	(IVICE O)	Sergeant Major (CSM)	(L-9)	(MGy3gt)	(IVICFO)	
	Special Grades ²					
	Master Chief Petty		Chief Master		Master Chief Petty Officer	
	Officer of the Navy	Sergeant Major of the	Sergeant of the Air	Sergeant Major of the	of the Coast Guard	
E-10	(MCPON)	Army (SMA)	Force (CMSAF)	Marine Corps (SgtMajMC)	(MCPO-CG)	











